

IV. COMPREHENSIVE PLAN

The *Newton Comprehensive Plan* states that “*development is to be guided to reflect the character held or sought by existing residential neighborhoods, protecting the qualities of that which exists.*” The Planning Department supports the proposed accessory apartment in this Single Residence 2 neighborhood, as the proposed accessory apartment should not impact the streetscape and will help to facilitate the preservation of an existing carriage house. The proposed accessory apartment should also provide diversity in the housing stock in this neighborhood, as presumably there are few one-bedroom apartments. The location of an additional housing unit within walking distance to public transportation and many neighborhood conveniences is also desirable.

V. TECHNICAL REVIEW

- A. Technical Considerations, Sec. 30-15 and Sec. 30-8(d). A special permit is required for approval of an accessory apartment in a detached structure, for habitable space above 18 feet, and for alterations to a nonconforming structure to provide for its use in “*a substantially different manner or greater extent than the existing use.*”

The petitioner has complied with all provisions for accessory apartments as noted in the attached Zoning Review Memorandum dated April 2, 2008 (*SEE ATTACHMENT-“A”*).

- B. Parking Requirements (Section 30-19). As noted earlier, a special permit is required for two parking stalls where they are proposed to be less than the required 9 ft. x 19 ft.

- C. Other Reviews

The Associate City Engineer did not review this petition for special permit as all utilities are existing and the petitioner is not adding any impervious surface to the site.

Assistant Fire Chief Proia reviewed the site plans and has approved proposed plans for emergency vehicle accessibility (*SEE ATTACHMENT “B”*)

VI. SUMMARY OF ZONING RELIEFS SOUGHT

Based on the Zoning Review Memorandum dated April 2, 2008, the petitioner is seeking relief from or approval through:

- Section 30-8(d)(2) for approval of an accessory apartment in a detached structure;
- Section 30-15(m)(2) for habitable space above 18 feet;
- Section 30-19(m) for approval of two parking stalls smaller than 9 ft.x19 ft.;
- Section 30-21(a)(2)b) for alterations to a nonconforming structure to provide for its use in a substantially different manner or greater extent than the existing use;
- Section 30-23 for approval of proposed site plan; and
- Section 30-24 for a special permit approving proposed project and related waivers.

The Planning Department notes that the petitioner must also comply with the screening requirements of Section 30-19(i)(1).

VII. SUMMARY OF PETITIONER RESPONSIBILITIES

At the public hearing the petitioner should plan to respond to all issues raised in this memorandum prepared by the Planning and Development Department. In particular, the petitioner should be expected to add some evergreen shrubs around parking stalls in order to meet screening requirements of 30-19(i)(1).

ATTACHMENTS:

***ATTACHMENT A:** Zoning Review Memorandum, April 2, 2008*

***ATTACHMENT B:** Fire Department Memorandum, March 12, 2008*


***ATTACHMENT C:** Land Use Map*

***ATTACHMENT D:** Zoning Map*

***ATTACHMENT E:** Proposed Conditions Plan*

Zoning Review Memorandum

To: G. Michael Peirce, Esquire, representing James Haywood, owner

From: Candace Havens, Chief Planner
Alexandra Ananth, Planner 

Date: April 2, 2008

Cc: John Lojek, Commissioner of Inspectional Services
Michael Kruse, Director of Planning and Development
Ouida Young, Associate City Solicitor

Re: Zoning review of proposed accessory apartment in a detached structure at 51 Hyde Street

Applicant: Jamie Haywood

Site: 51 Hyde Street Zoning: SR 2 Current use: Carriage house	SBL: Section 52, Block 20, Lot 18 Lot Area: 22,048 sq. ft. Prop. use: Accessory Apartment
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The following review is based on statements and plans prepared and submitted to the Planning Department by the applicant and their agent.

Background:

According to the applicant, the lot was created in 2005 (new lot) and is located in a Single Residence 2 District. The property consists of an owner occupied single-family house with a detached carriage house circa 1890. *The applicant seeks to convert the existing detached carriage house to an accessory apartment, permitted by special permit pursuant to 30-8(d)(2).* The accessory apartment will be located on the first floor and ½ story above. There will be no expansion of the building envelope. The carriage house is 20.74 ft. in height, making it a valid non-conforming structure. *As the applicant is proposing to alter a non-conforming structure to provide for its use in a substantially different manner or greater extent than the existing use, the applicant will need to seek a special permit pursuant to 30-21(a)(2)b).*

A. Dimensional Controls including Parking and Loading Requirements

The table below depicts how the project compares with the requirements of Section 30-8(d) Table 30-8, of the Zoning Ordinance:

Table 30-8, Dimensional Requirements for Accessory Apartments	Lot Size		Building Size	
	Min. Required	Proposed	Min. Required	Proposed
SR2	15,000 sq. ft.	22,048 sq. ft.	3,100 sq. ft.	4,562 sq. ft.

Section 30-8(d) Table 30-8, Dimensional Requirements for Accessory Apartments, establishes minimum lot area and building size requirements for accessory apartments in SR2 zoned areas. Lot area of 22,048 meets Table 30-8 lot area requirements. Section 30-1 Definitions, Building Size, subparagraph (d) pertains specifically to detached accessory apartments and provides that the combined habitable space of the primary dwelling plus the proposed accessory apartment together constitute "building size." The combined habitable space of the primary dwelling plus the proposed accessory apartment (3696+866) of 4,562, meets Table 30-8 building size requirements.

Section 30-8(d)(1)a) requires that the building in which the accessory apartment is located is an owner occupied single family dwelling. The petitioner has submitted a certification dated March 26, 2008 confirming this.

Section 30-8(d)(1)b) allows accessory apartments in single-family districts provided the single-family dwelling is constructed prior to January 1, 1989. The petitioner has stated that the house was constructed in 1890. A search of the Assessor's Database confirmed this.

Section 30-8(d)(1)c) and Section 30-8(d)(2)a) establishes the building size/area requirement applicable to accessory apartments as between 400 and 1,200 sq. ft. in area. As stated by the applicant the accessory apartment will contain 866 sq. ft. on two floors meeting the building size requirements.

Section 30-8(d)(1)d) limits exterior alterations required to meet applicable building, fire or health codes. It does not appear that the petitioner is proposing any exterior alterations.

Section 30-8(d)(1)e) limits exterior alterations made within the four (4) years prior to application from being applied towards meeting the requirements for building size. It does not appear that any exterior alterations adding to the building size were made within the past four (4) years.

Section 30-8(d)(1)f) states that there shall be no more than one accessory apartment per lot. It does not appear that there are any other accessory apartments on the lot.

Section 30-8(d)(1)g) states that there shall be no lodgers in either the original dwelling unit or the accessory apartment. That applicant has provided a certification confirming this.

Section 30-8(d)(1)h) together with Sections 30-19(d)(2), (d)(19), and 30-19(g) establish the requirements for parking facilities in conjunction with accessory apartments. Submitted plans indicate two parking stalls will be provided by expanding the gravel driveway to the east of the existing house. One of these stalls will be reserved for the accessory apartment and one will be for the main residence. *Both of these stalls are 8.5 ft. x 18 ft. and will require waivers from the dimensional requirements.* An additional conforming stall located in front of the existing porch will provide the additional parking necessary for the main house. Although the stall is located in the front setback, one stall per dwelling unit may be located within required setbacks. The stall conforms to the 5 ft. minimum setback from the street. The applicant appears to be maintaining a 14 ft. wide driveway on site, meeting dimensional requirements.

Section 30-8(d)(1)h) together with Section 30-19(i)(1) establish the parking-related screening requirements. Submitted plans indicate that three Blue Princess Holly shrubs will be planted in order to screen proposed parking. It appears this will meet the screening requirement.

Section 30-8(d)(1)i) requires that the accessory apartment comply with all applicable building, fire, and health codes. It is suggested the applicant arrange an inspection of the subject building by the Inspectional Services Department (ISD) for structural aspects, and obtain an ISD plan review of proposed accessory apartment design plans to confirm that all applicable life safety codes are met. The Fire Department has reviewed and approved the site plan for fire department accessibility. The applicant also needs to meet all applicable engineering standards pertaining to water supply and sewer lines. In the event life safety considerations are not fully addressed at the time of application to the Board of Aldermen for special permit, it is recommended such special permit, if granted by the Board, be approved only on condition of full compliance with all applicable life safety codes.

Section 30-15, Table 1- Density & Dimensional Controls in Residence Districts and for Residential Uses (Table 1), and Section 30-15(m)(1) and (2) establish the setback and height provisions applicable to accessory buildings. As the subject garage building was built circa 1890, it predates zoning as well as Ordinance V-273, adopted Dec. 6, 1999 regulating accessory buildings. The existing garage building meets the current setback requirements.

The existing and proposed height of the accessory building will be approximately 20.74 ft. as calculated on the proposed conditions plan, exceeding the maximum height limitations of 18 ft. As a result, the accessory

apartment is considered a valid non-conforming structure. *The petitioners will need to seek a waiver from Section 30-15(m)(2) for habitable space above 18 ft.*

Section 30-15(m)(3) establishes a 1.5 story limit for accessory buildings. Submitted plans and calculations indicate that the upper floor meets the ½ story requirement as established in Section 30-1, Definitions – Story, half.

Section 30-5(b)(4) requires a special permit whenever “...the existing contours of the land are to be altered by more than three (3) feet.” The applicant states that the proposed work will not involve re-grading with changes in topography exceeding three feet.

While the applicant has submitted no information pertaining to lighting, the petitioner is responsible for complying with Ordinance X-142, Light Ordinance, as set out in Sections 20-23 through 20-28 with respect to Light Pollution and Light Trespass, respectively.

In addition, the applicant will be responsible for compliance with all applicable Newton Ordinances including but not limited to tree removal and fencing.

B. Summary of Zoning Relief Needed

The applicant will need to seek relief from or approvals through the following sections of the Newton Zoning Ordinances:

- *Section 30-8(d)(2) for approval of an accessory apartment in a detached structure;*
- *Section 30-15(m)(2) for habitable space above 18 ft.*
- *Section 30-19(m) for approval of two parking stalls smaller than 9’x19’;*
- *Section 30-21(a)(2)b) for alterations to a nonconforming structure to provide for its use in a substantially different manner or greater extent than the existing use;*
- *Section 30-23 for approval of site plan; and*
- *Section 30-24 – for a special permit approving proposed project and related waivers.*

An electronic copy of plans should be submitted to the Planning Department at the time of filing for a special permit.

Plans and Materials Reviewed:

- Set of site plans for 51 Hyde Street, dated February 16, 2006, prepared by Verne T. Porter Jr., PLS, all stamped and signed by Stephen E. Poole, Professional Engineer, and Verne T. Porter, Professional Land Surveyor including:
 - Area Plan, revised 12/12/07;
 - Proposed Conditions Plan, last revised 3/5/08;

- Existing Conditions Plan, revised 12/24/07.
- Set of architectural plans titled Carriage House Renovations, prepared by The Architectural Team, Inc. stamped and signed by Michael Liu, Registered Architect including:
 - Sheets A-2 – Floor Plans, last revised March 20, 008;
 - Sheets A-2 – Exterior Elevations, dated February 13, 2007.
- Landscape Design Plan, Hayward Residence, dated October 6, 2005 prepared and stamped by John T. Judge, Registered Landscape Architect last dated 5/17/06.
- Attachment to Submittal Checklist, not dated.
- Letter from Bruce A. Proia, Assistant Chief of Operations, City of Newton Fire Department, dated March 12, 2008.



CITY OF NEWTON, MASSACHUSETTS
FIRE DEPARTMENT HEADQUARTERS

1164 Centre Street, Newton Center, MA 02459-1584
Chief: (617) 796-2210 Fire Prevention: (617) 796-2230
FAX: (617) 796-2211 EMERGENCY: 911



David B. Cohen
Mayor

Joseph E. LaCroix
Chief

Alderman George Mansfield
Land Use Committee
Newton City Hall
1000 Commonwealth Avenue
Newton Centre, Ma 02459

March 12, 2008

Re: 51 Hyde Street

Dear Mr. Mansfield,

We have reviewed the site plans for accessory apartment located at 51 Hyde Street. This is to advise you that the Newton Fire Department has stamped the plans and approves the site plan for fire department accessibility.

We will of course be reviewing the plans relative to Fire Prevention matters during the building permit process.

Sincerely,

A handwritten signature in black ink, appearing to read "A C Proia", written over a horizontal line.

Bruce A. Proia
Assistant Chief of Operations

Cc: Michael Peirce, ESQ.
Deputy Chief Michael Castro, Fire Prevention
Candace Havens, Planning and Development

Land Use Map

51 Hyde Street
Newton Highlands



Legend

- 51 Hyde St
- Scenic Roads
- Building Footprints
- Single Family Residential
- Multifamily Residential
- Commercial
- Industrial
- Mixed Use
- Vacant Land
- Golf Course
- Open Space
- Private Educational
- Nonprofit Organizations
- Public Housing
- Tax Exempt



The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve applications based solely on GIS data.

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Feet

MAP DATE: May 05, 2008

ATTACHMENT C



Zoning Map

51 Hyde Street
Newton Highlands



Legend

- 51 Hyde St
- Building Footprints
- Single Res. 1
- Single Res. 2
- Single Res. 3
- Business 1
- Business 2
- Multi-Res. 1
- Multi-Res. 2
- Multi-Res. 3
- Multi-Res. 4
- Mixed Use 1
- Mixed Use 2
- OS/Rec.
- Public Use

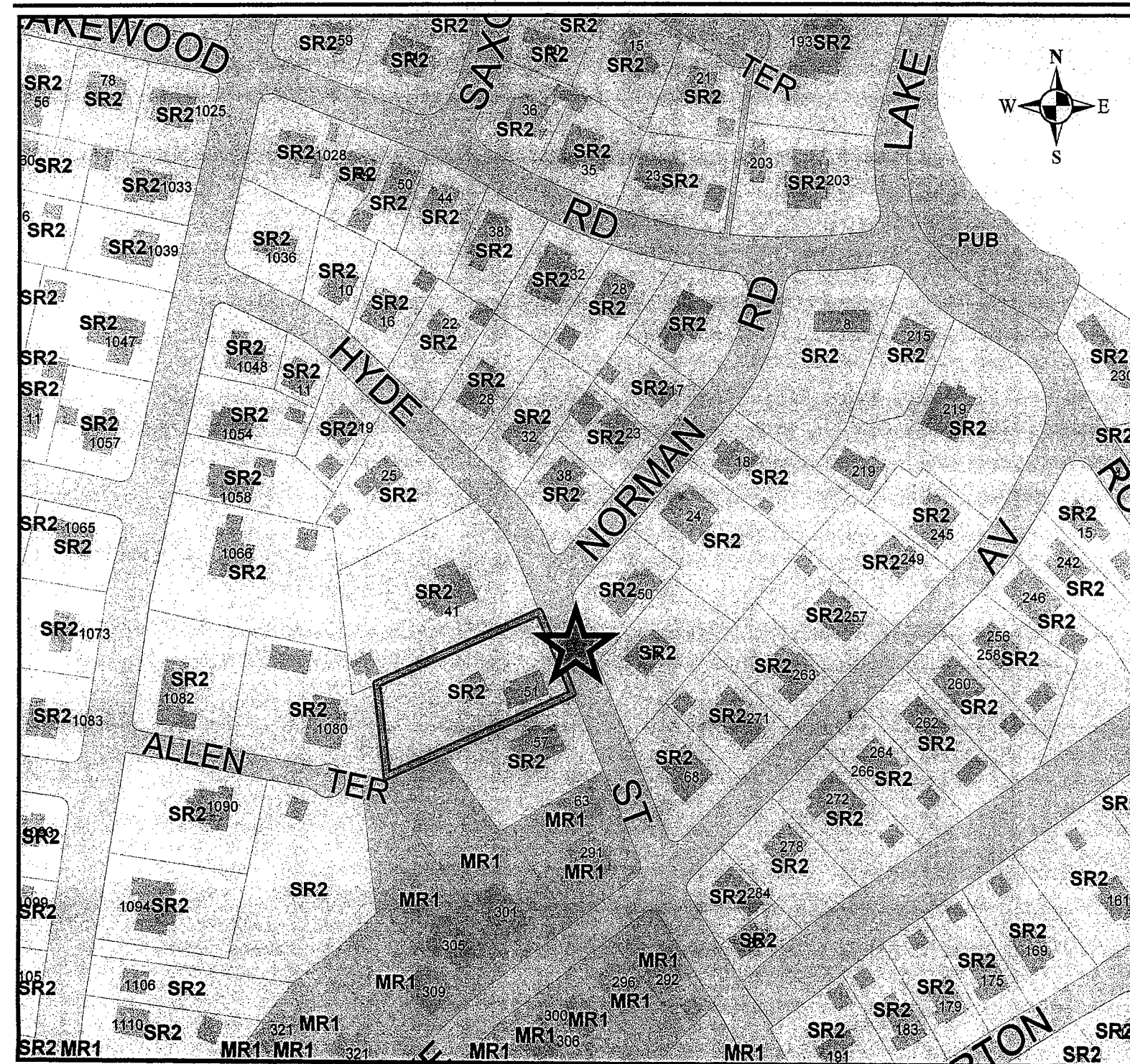


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MAP DATE: May 05, 2008

ATTACHMENT D



- 1.) 30-8(d)(2) Access
with detached.
- 2.) 30-19(m) Park
than 9'X19'.

n/f
The Artin Nominee Trust

Propri
Stru
Open

Revised 03-

Revised 12

